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Subject: (Malibu High School) PEER Press Release: Judge Greenlights Malibu School PCB Lawsuit

For Immediate Release: Tuesday, June 16, 2015

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JUDGE GREENLIGHTS MALIBU SCHOOL PCB LAWSUIT District Spending Tops \$6 Million in Steps to Avoid Complete Cleanup

Los Angeles — A federal judge has rejected an attempt by the Santa Monica-Malibu school district (SMMUSD) to block a lawsuit by parents and teachers seeking a toxic cleanup of Malibu public schools, according to a ruling posted today by America Unites for Kids and Public Employees for Environmental Responsibility (PEER), the plaintiffs in the lawsuit. Not only may the lawsuit proceed, but the plaintiffs will be allowed to start conducting even more tests on PCB-laden school facilities, testing the district has spent 21 months and over \$6 million to avoid.

The June 15, 2015 order by U.S. District Court Judge Percy Anderson rejected the SMMUSD motion to dismiss the suit, which he also found “had established a likelihood of success” on the merits. He further indicated that the groups could begin preliminary testing within facilities on the Malibu Middle and High Schools and Juan Cabrillo Elementary School campuses. Filed on March 23rd, the suit charges that the schools contain toxic polychlorinated biphenyls (PCBs) in concentrations thousands of times above the safety limits established in the federal Toxic Substances Control Act.

“We are happy that the district’s attempts to obstruct our path to the courthouse have been rejected,” stated PEER Senior Counsel Paula Dinerstein, whose organization is representing teachers who expressed concern about health effects, ranging from thyroid cancer to migraines, from toxic contamination inside classrooms and school facilities. “This suit is necessary because the U.S. Environmental Agency has failed to enforce the District’s legal obligation to remedy conditions threatening the well-being of both students and teachers.”

In support of their suit, the plaintiffs are producing test results from independent sources and the school district itself showing stratospherically high levels of PCBs. Some of these test results from EPA-certified labs reveal PCB levels ranging from 330 parts per million to 570,000 ppm, meaning that over 50% of the caulk sample was pure PCB, a cancer-causing, banned chemical. By contrast, the federal safety limit is just 50 ppm.

Nonetheless, the SMMUSD has vigorously resisted PCB-source testing and complete PCB removal. In fact, the latest tally of SMMUSD spending totals more than \$6 million since late 2013 when PCBs were first found in the caulking. Not a single ounce of PCB-contaminated material has

been removed. Instead, the District expended millions on consultants, PR and lawyers to mount a defense to resist actual testing and identification of PCB-laden caulking in an attempt to avoid compliance with Federal law.

“The district has spent far more money avoiding a cleanup than a full cleanup would ever cost,” said Jennifer deNicola, President of non-profit America Unites for Kids which is being represented in this action by Charles Avrith of the Los Angeles law firm of Nagler & Associates. “Schools on the East Coast have been successfully removing PCBs for over 10 years and Malibu can too if the defendants, all tasked to protect children, would protect the kids’ interests rather than their own. All our nations’ children deserve a safe learning environment free from PCBs; an education that will not jeopardize their health.”

The parents and teachers believe that further testing will demonstrate that PCB contamination is wide-spread and that the only solution both to protect kids and teachers and to comply with the law is a thorough investigation to identify and remove all PCBs found to be at illegal levels. In addition, they continue to criticize district testing practices such as leaving windows and doors open for a full day before doing air testing, as well as pre-cleaning surfaces before wipe tests as a way to manipulate results. The suit now moves into its discovery phase of producing evidence on the actual condition of each pre-1979 building on the three-school complex.

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[Read the judge’s order](#)

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[See a breakdown of SMMUSD spending](#)

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